

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

AARON KOLLIE SMITH,)	CASE NO. 5:14 CV 2306
)	
Petitioner,)	JUDGE DAN AARON POLSTER
)	
v.)	
)	
U.S. IMMIGRATION AND CUSTOMS)	<u>MEMORANDUM OF OPINION AND</u>
ENFORCEMENT,)	<u>ORDER</u>
)	
)	
Respondent.)	

Pro se petitioner Aaron Kollie Smith filed the pending petition for habeas corpus pursuant to 28 U.S.C. § 2241 challenging respondent's failure to remove him from the United States. Petitioner states he is presently confined in the Butler County Jail located in Hamilton, Ohio. Butler County is within Ohio's southern federal judicial district.

Jurisdiction over a § 2241 habeas petition is limited to the district where the petitioner is being held in custody. *Walker v. Morrison*, 13 Fed. App'x 316, 317 (6th Cir. 2001) ("A petition for habeas corpus under § 2241 must be filed in the district court having jurisdiction over the petitioner's custodian"). As a general matter, habeas jurisdiction lies in the district where the prisoner was incarcerated at the time his habeas petition was filed. *Hernandez Jaruffe v. Chertoff*, No. 07-2253, 2007 WL 1521181, at *2 (D. N.J. May 22, 2007).

This Court lacks jurisdiction over this action because petitioner is confined at a county jail

in the Southern District of Ohio and was confined there when his petition was filed. Whenever a civil action is filed in a court that lacks jurisdiction, “the court shall, if it is in the interest of justice, transfer such action . . . to any other such court in which the action . . . could have been brought at the time it was filed.” 28 U.S.C. § 1631. Transfer of this habeas action to the United States District Court for the Southern District of Ohio is in the interest of justice. No proceedings have occurred, and the petitioner was confined in the Southern District of Ohio at the time his petition was filed.

Conclusion

Accordingly, for the reasons stated above, this action will be transferred to the United States District Court for the Southern District of Ohio, the court where the action could have properly been brought.

IT IS SO ORDERED.

/s/Dan Aaron Polster 10/23/14
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE